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March 29, 2004

VIA COURIER

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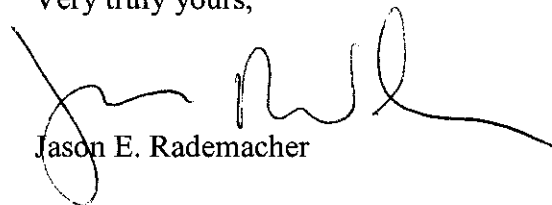
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARYMs. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554Attention: Video Division  
Media BureauRe: KPXL(TV), Uvalde, Texas  
Facility I.D. No. 61173  
Petition to Amend the DTV Table of Allotments

Dear Ms. Dortch:

On behalf of Paxson San Antonio License, Inc. ("Paxson"), licensee of commercial television station KPXL(TV), Uvalde, Texas, we hereby transmit an original and four copies of a *Petition for Rule Making* proposing allotment of DTV Channel 20, at Uvalde, Texas, pursuant to the Commission's rules and policies.<sup>1</sup>

If any additional information is needed in connection with this matter, please contact me.

Very truly yours,

  
Jason E. Rademacher

Enclosure

No. of Copies rec'd 0+4  
List ABCDE  
MB 04-23

<sup>1</sup> On March 22, 2004, this firm filed, on Paxson's behalf, a *Petition for Rulemaking* that erroneously referenced DTV Channel 26 at Uvalde, Texas, as the requested channel. By letter, Paxson today has requested withdrawal of that *Petition for Rulemaking*.

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

**RECEIVED**

**MAR 29 2004**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Amendment of Section 73.622(b)	)	MM Docket No. _____
DTV Table of Allotments,	)	RM- _____
Digital Television Broadcast Stations	)	
(Uvalde, Texas)	)	

**PETITION FOR RULE MAKING TO AMEND  
THE DTV TABLE OF ALLOTMENTS**

Paxson San Antonio License, Inc. ("Paxson"), licensee of commercial television station KPXL(TV) serving Uvalde, Texas (the "Station"), by its attorneys and pursuant to Section 1.401 of the Commission's Rules,<sup>1</sup> hereby respectfully petitions the Commission to institute a rulemaking to amend Section 73.622(b), the DTV Table of Allotments, by allocating Channel 20 as a first DTV allotment for Uvalde, Texas.<sup>2</sup> Specifically, the DTV Table of Allotments would be amended as follows:

	<b><u>Present</u></b>	<b><u>Proposed</u></b>
Uvalde, Texas	--	<b><u>20</u></b>

This amendment is requested so that the Station can receive a paired channel for digital operation, thereby permitting full participation in the Commission's implementation of digital

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<sup>1</sup> 47 C.F.R. § 1.401.

<sup>2</sup> On March 22, 2004, this firm filed, on Paxson's behalf, a *Petition for Rulemaking* that erroneously referenced Channel 26 at Uvalde, Texas, as the requested paired channel. By letter, Paxson today requested withdrawal of that *Petition for Rulemaking*.

television.<sup>3</sup> Channel 20 is the only in-core allotment currently available that would allow the Station to operate digital facilities from its authorized analog tower site consistent with the Commission's technical rules. As the attached technical exhibit demonstrates, the Channel 20 allotment satisfies the Commission's allotment criteria under Section 73.622,<sup>4</sup> and the Station's digital operations on Channel 20 would not impermissibly impact any existing TV or DTV service. In addition, the Station is not predicted to cause impermissible interference to any protected Class A or television translator station.

The Commission granted the initial construction permit for the Station on March 12, 1998 – too late for the Station to be initially assigned a paired DTV allotment.<sup>5</sup> Under the rules and policies governing the conversion to DTV, the Station, which has been on-the-air since 2000, is allowed to continue operating in analog on its single allotment until no later than the close of the DTV transition. At some point, the Station will be allowed to “flash-cut” to

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<sup>3</sup> The Media Bureau recently dismissed a similar request by Paxson Syracuse License, Inc. for a paired channel for WSPX-TV, Syracuse, New York (the “Paxson Syracuse Petition”). See Letter from Clay C. Pendarvis to John R. Feore, Jr., Esq., dated February 17, 2004. On March 18, 2004, Paxson filed an Application for Review of that decision arguing that the Bureau's decision and a subsequent Commission decision in Muskogee, Oklahoma, *Memorandum Opinion and Order*, FCC 03-321 (rel. March 2, 2004), violate previously announced Commission policies and the relevant provisions of the Communications Act.

<sup>4</sup> As described in the attached Technical Exhibit, if this Petition is evaluated under the spacing criteria for new DTV allotments described in Section 73.623(d), the requested allotment would be considered short-spaced by 11.4 km to KHCE(TV), San Antonio, Texas and by 29.1 km to facilities proposed for a new NTSC station at Blanco, Texas. Because the Commission would allow the station to “flash-cut” to digital on its assigned allotment, however, the proposed allotment should be treated under the evaluative criteria set forth in Section 73.622(c) of the Commission's rules. As the Technical Exhibit shows, when evaluated under these criteria, the proposed allotment satisfies the Commission's *de minimis* interference criteria. As described in the Technical Exhibit, a nominal grid size resolution of 1 km was employed. To the extent necessary, Paxson requests a waiver permitting he use this accuracy-enhancing tool.

<sup>5</sup> Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, *Sixth Report and Order*, 12 FCC Rcd 14588, ¶¶ 8-11 (1997) (describing stations initially eligible for DTV channel allotments) (“*DTV Sixth Report and Order*”).

digital. This approach, however, would necessarily prevent the Station from participating at all in the digital transition, and would only permit the Station to join the digital world at the very end of the transition. To facilitate full participation, Paxson is requesting that the Commission assign the new Channel 20 allotment as the Station's paired DTV channel.

Following Congressional directive, the Commission stated when it issued the DTV Table that it *initially* would assign paired allotments only to those stations which either were on-the-air or held a construction permit.<sup>6</sup> At that time, the Commission envisioned a highly accelerated DTV transition and accordingly adopted implementation policies designed to facilitate a rapid transition.<sup>7</sup> Indeed, Congress itself subsequently codified the Commission's 2006 target date for ending the DTV transition.<sup>8</sup> Thus, in 1997, the decision to leave certain stations without a paired

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<sup>6</sup> *DTV Sixth Report and Order*, ¶¶ 8-11; see also *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, Second Memorandum Opinion And Order On Reconsideration Of The Fifth And Sixth Report And Orders*, 14 FCC Rcd 1348, ¶ 17 (1998) ("*Second MO&O*"). Congress restricted "*initial* eligibility" for DTV licenses to these stations. 47 U.S.C. § 336(a)(1) (emphasis added). Now more than five years later, it would be disingenuous to argue that the Congressional restriction on *initial* eligibility would prevent the assignment of a DTV allotment to KPXL-DT, especially in light of The Public Health, Security, and Bioterrorism Preparedness and Response Act of 2002, Pub. L. No. 107-188, 116 Stat. 594, enacted June 12, 2002 (the "*Bioterrorism Act*") (see *infra* note 10).

<sup>7</sup> *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, Fifth Report and Order*, 12 FCC Rcd 12809, ¶¶ 6 ("The more quickly that broadcasters and consumers move to digital, the more rapidly spectrum can be recovered"), 37 (explaining that decision to allow broadcasters flexibility to broadcast non-high definition digital signal designed to facilitate "rapid transition"), 97 ("One of our overarching goals in this proceeding is the rapid establishment of successful digital broadcast services that will attract viewers from analog to DTV technology, so that the analog spectrum can be recovered") (1997) ("*Fifth Report and Order*").

<sup>8</sup> The Balanced Budget Act of 1997 added a new Section 309(j)(14) to the Communications Act. That section states that "[a] broadcast license that authorizes analog television service may not be renewed to authorize such service for a period that extends beyond December 31, 2006" unless the Commission grants an extension based on specific enumerated criteria. 47 U.S.C. Sec. 309(j)(14). See also *Fifth Report and Order*, ¶ 99 (setting 2006 target date for return of analog spectrum).

allotment during an expectedly short transition period was not considered debilitating to single-channel broadcasters.

This is no longer the case. The transition has been more protracted and staggered than most anticipated. Questions, for example, about the robustness of the transmission format, the security of digital content, and the interoperability of cable and consumer electronic equipment have hindered the transition.<sup>9</sup> Even as the pace of the transition has slowed, however, spectrum recovery for public safety services – always a significant element of the Commission’s DTV policies – has become even more important as a result of the attacks of 9/11, further compelling the need for a rapid transition. In response, the Commission, hoping to accelerate market penetration and facilitate the close of the transition, has embraced increasingly aggressive policies to place DTV stations into operation as quickly as possible.<sup>10</sup> Congress responded as well. Concerned about the pace of the transition and the acceptance by consumers, Congress

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<sup>9</sup> See, e.g., Review of the Commission’s Rules and Policies Affecting the Conversion To Digital Television, *Report and Order*, 16 FCC Rcd 5946, ¶¶ 98-105 (2001); Digital Broadcast Copy Protection, *Notice of Proposed Rulemaking*, MB Docket No. 02-230, FCC 02-231, ¶¶ 3-9 (rel. Aug. 9, 2002); Compatibility Between Cable Systems And Consumer Electronics Equipment, *Report and Order*, 15 FCC Rcd 17568 (2000).

<sup>10</sup> See Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices; Compatibility Between Cable Systems and Consumer Electronics Equipment; Digital Broadcast Content Protection, *Order*, CS Docket No. 97-80; PP Docket No. 00-67; MB Docket No. 02-230, DA 03-4085 (rel. December 23, 2003) (adopting broadcast flag regulations); Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices; Compatibility Between Cable Systems and Consumer Electronics Equipment, *Second Report And Order And Second Further Notice Of Proposed Rulemaking*, CS Docket No. 97-80, PP Docket No. 00-67, FCC 03-225 (rel. Oct. 9, 2003) (adopting cable plug-and-play memorandum of understanding between cable operators and consumer electronics manufacturers); Remedial Steps For Failure to Comply With Digital Television Construction Schedule; Requests For Extension of the October 5, 2001, Digital Television Construction Deadline, *Order And Notice Of Proposed Rulemaking*, 17 FCC Rcd 9962, ¶ 16 (2002) (adopting sanctions for failure to timely construct DTV stations); Review of the Commission’s Rules and Policies Affecting the Conversion To Digital Television,

required the Commission to assign paired allotments upon request to a number of single-channel stations to promote “the orderly transition to digital television, and to promote the equitable allocation and use of digital channels.”<sup>11</sup>

It accordingly would be unreasonable at this time to continue to deny an available DTV allotment to a single-channel station such as the Station, especially when no existing service would be impermissibly impacted by the allocation. There would only be service gains in this case. Assignment of a new DTV allotment would allow the Station to become a full participant in the DTV transition and generally would facilitate the implementation of digital television. DTV is critical to the future of all broadcasters, but especially to Paxson Communications Corporation (“PCC”), parent company of the Station’s licensee. PCC has spearheaded efforts to introduce innovative digital services such as multicasting that promise to unlock to consumers the full potential of DTV.

Without a paired allotment, the Station is precluded from fully participating in the digital transition. It is not clear when the Station could or would commence DTV service – contrary to the Commission’s desire to place as many DTV stations into operation as possible. Rather than incentivizing consumers to purchase digital receivers or facilitating the return of analog spectrum, the Station would be forced to await a level of consumer equipment penetration that might justify abandoning its analog audience.

With a paired DTV allotment, the Station would ensure that existing service to viewers is preserved during the transition. Those viewers capable of receiving digital signals would receive

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*Memorandum Opinion and Order on Reconsideration*, 16 FCC Rcd 20594. ¶¶ 34-36 (allowing DTV stations to commence operations at low power).

<sup>11</sup> The Public Health, Security, and Bioterrorism Preparedness and Response Act of 2002, § 531(a), Pub. L. No. 107-188, 116 Stat. 594, enacted June 12, 2002.

the benefits of enhanced KPXL-DT programming. Viewers who have not purchased digital equipment would not be disenfranchised. Equally important, a new DTV allotment would increase the amount of digital content available to viewers, thereby creating additional incentive for consumers to purchase digital equipment and facilitate the recovery of spectrum.

Obviously, the Commission understands and has embraced the merits of paired allotments. To avoid service disruption and losses, the Commission initially assigned a second allotment for digital broadcasting purposes to each existing station<sup>12</sup> – even at the expense of creating new interference to a significant number of stations.<sup>13</sup> Congress, too, which restricted the *initial* assignment of paired allotments, has clearly identified the benefits of assigning paired allotments to single-channel broadcasters, and in some cases has specifically directed that they be assigned. Given the renewed urgency of facilitating the digital transition, assigning a DTV allotment to the Station would be in the public interest.

Accordingly, Paxson requests that the Commission institute a rulemaking proceeding to amend Section 73.622(b) to allocate Channel 20 to Uvalde, Texas as a paired allotment for the Station. If the Commission grants this petition and modifies the DTV Table of Allotments as

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<sup>12</sup> See Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, *Second Report and Order and Further Notice of Proposed Rulemaking*, 7 FCC Rcd 3340, ¶¶ 9-13 (1992) (setting forth eligibility criteria for paired digital allotments). See generally, *Sixth DTV Report and Order*, ¶ 11.

<sup>13</sup> See *Sixth DTV Report and Order*, Appendix B.

requested, Paxson is committed to applying for and constructing a DTV station on Channel 20 at the earliest practical date.

Respectfully Submitted,

PAXSON SAN ANTONIO LICENSE, INC.

By:

\_\_\_\_\_  
John R. Feore, Jr.  
Scott S. Patrick  
Jason E. Rademacher

Its Attorneys

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202-776-2000

Dated: March 29, 2004



TECHNICAL EXHIBIT  
PREPARED IN SUPPORT OF  
PETITION FOR RULEMAKING TO  
MODIFY THE DTV ALLOTMENT TABLE  
STATION KPXL-DT  
UVALDE, TEXAS

Technical Narrative

This Technical Exhibit has been prepared on behalf of television station KPXL(TV), analog channel 26, in Uvalde, Texas. KPXL(TV) was not allotted a digital transition channel in the Memorandum Opinion and Order (MO&O) concerning reconsideration of the 6<sup>th</sup> Report and Order in MM Docket No. 87-268. Therefore, KPXL(TV) is seeking a NEW DTV channel for digital operation. A search of the core band (2-51) indicates that channel 20 is the best possible channel for digital use at the present location.

KPXL-DT channel 20 can be allotted to Uvalde in compliance with the principal community coverage requirements of Section 73.625(a) at the following reference coordinates:

29° 37' 11" North Latitude  
99° 02' 57" West Longitude

These coordinates are the same as KPXL's current analog site. Operation on DTV channel 20 appears possible with an effective radiated power (ERP) of 465 kW utilizing a non-directional antenna with a height above average terrain (HAAT) of 518 meters and a radiation center of 920 meters above mean sea level (AMSL).

Figure 1 is a coverage map showing the noise-limited coverage contour and the city coverage contour for the proposed facility. As shown, all of Uvalde is encompassed within both contours (2000 Census).

### Allocation Analysis

The proposed Rulemaking meets all of the minimum separation requirements to domestic stations and allotments except with respect to a pending application (BNPCT-20000817AAF) for a new NTSC station on channel 17 at Blanco, Texas, and station KHCE(TV) on channel 23 at San Antonio, Texas. With respect to the Blanco application, the proposed site is located 53.2 kilometers from this station. The FCC separation requirement toward this facility is a distance of less than 24.1 kilometers or greater than 96.6 kilometers. Therefore the proposed site is 29.1 kilometers short with respect to pending application facility. With respect to KHCE(TV), the proposed site is located 85.2 kilometers from this station. The FCC separation requirement toward KHCE(TV) is a distance of less than 24.1 kilometers or greater than 96.6 kilometers. Therefore the proposal is 11.4 kilometers short with respect to KHCE(TV). However, pursuant to Section 73.623(c), it is calculated that less than 2 percent new interference will be caused to both the channel 17 pending application at Blanco, and station KHCE(TV) by the proposed KPXL-DT allotment (see Figure 2).<sup>1</sup>

Figure 2 provides a summary of interference and service for the proposed channel 20 allotment. Determination of interference and service was based on the procedures outlined in OET Bulletin No. 69 and criteria contained in Sections 73.622 and 73.623 of the FCC's rules. It is believed that the proposed channel 20 allotment is in full compliance with the FCC's 2 percent criterion for *de minimis* impact applicable to DTV allotment modifications under Section 73.623(c)(2). There are no spacing violations or contour overlap to Class A stations.

### LPTV/TV translator Impact

The proposed Rulemaking facility will not adversely impact any LPTV or TV translator stations.

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<sup>1</sup> The du Treil, Lundin & Rackley, Inc. DTV interference analysis program is based on the program and procedures outlined by the FCC in the Sixth Report and Order; subsequent Memorandum Opinion and Order; and FCC OET Bulletin No. 69. A nominal grid size resolution of 1 km was employed. A Sun based processor computer system was employed.

Mexican Allocation Analysis

As the proposal is located in the U.S./Mexico border zone (within 400 km), a Mexican allocation study was conducted to confirm compliance with the US/Mexico TV/DTV agreement. A separation study indicates that the proposed Channel 20 DTV allotment meets the minimum separation requirements to all Mexican allotments.

Therefore, it is proposed to assign the following specifications for KPXL-DT's digital channel operation:

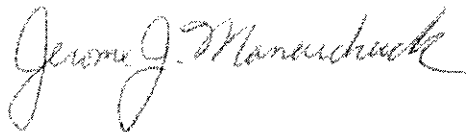
State & City	DTV Channel	DTV ERP (kW)	Antenna Radiation Center	Antenna HAAT (m)
TX, Uvalde	20	465 kW	920 m AMSL	518 m
Reference Coordinates: 29° 37' 11 N. Latitude/99° 02' 57" W. Longitude				

It is also proposed to amend the DTV Table of Allotments, Section 73.622(b) of the Commission's Rules, as follows:

Channel No.

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Uvalde, TX	--	20

This instant Rulemaking petition is not contingent upon any pending or future application for construction permit for any facility.

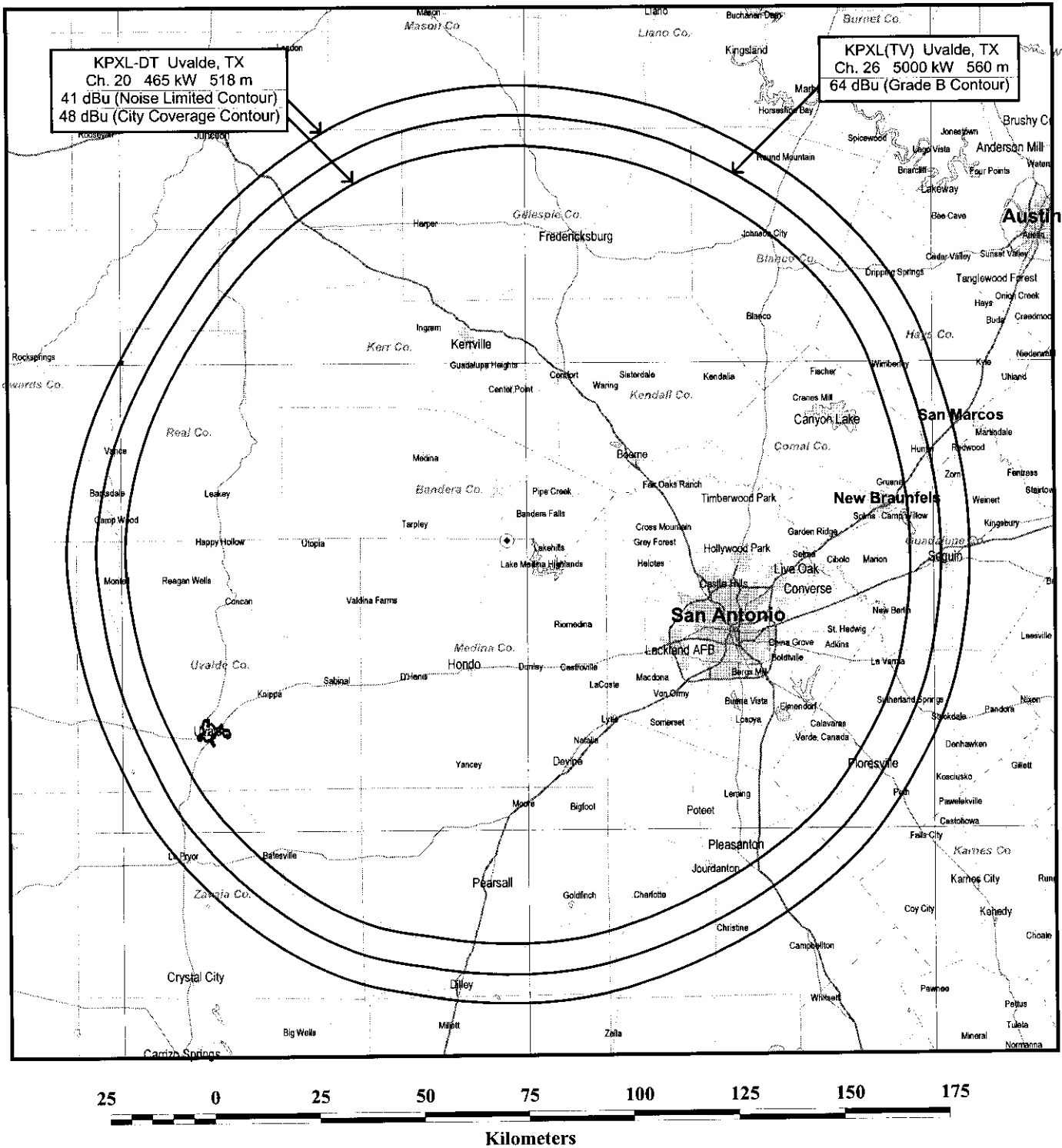


Jerome J. Manarchuck

du Treil, Lundin & Rackley, Inc.  
201 Fletcher Avenue  
Sarasota, Florida 34237  
(941) 329-6000

March 22, 2004

Figure 1



## PREDICTED COVERAGE CONTOURS

STATION KPXL-DT  
UVALDE, TEXAS  
CH 20 465 KW 518 M

du Treil, Lundin & Rackley, Inc. Sarasota, FL

TECHNICAL EXHIBIT  
PREPARED IN SUPPORT OF  
PETITION FOR RULEMAKING TO  
MODIFY THE DTV ALLOTMENT TABLE  
STATION KPXL-DT  
UVALDE, TEXAS

Summary of Channel 20 OET-69 Allocation Analysis

Facility	Channel	Baseline Service Population (1990)	Net New IX Caused by Proposed (1990)	Percent of Baseline (%)
K16CY, App. BPTTA-20031201ABL Austin, TX	16	No Interference Predicted		
NEW, RM BPRM-20020308ABT Blanco, TX	17	1,479,898	1,323	0.1%
NEW, App. BNPCT-20000817AAF Blanco, TX	17	1,447,611	1,347	0.1%
KNIC-CA, Lic. San Antonio, TX	17	No Interference Predicted		
KVCT(TV), App. Victoria, TX	19	No Interference Predicted		
KTXH(TV), Lic. Houston, TX	20	No Interference Predicted		
K20EK, Lic. Kingsville-Alice, TX	20	No Interference Predicted		
KTLM, CP Rio Grande City, TX	20	No Interference Predicted		
KAIO-DT, Alt. Rio Grande City, TX	20	No Interference Predicted		
KTXS-DT, Alt. Sweetwater, TX	20	237,195	930	0.4%
KWBU-TV, CP Waco, TX	20	201,470	963	0.5%
KCTF-DT, Alt. Waco, TX	20	No Interference Predicted		
KXAN-DT, CP Austin, TX	21	1,082,067	14,558	1.3%
KXAN-DT, Alt. Austin, TX	21	1,082,067	393	0.0%
KXTM-LP, Lic. San Antonio, TX	21	No Interference Predicted		
KHCE, Lic. San Antonio, TX	23	No Interference Predicted		